



C.R.P(MD)No.913 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.913 of 2019

Ibrahim : Petitioner/Petitioner/Decree Holder

Vs.

1.The State of Tamil Nadu
Rep.by the District Collector,
Trichy District.

2.The Tahsildar,
Taluk Office, Manachanallur. : Respondent/Respondent/Judgment
Debtors

Prayer : This Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order, dated 25.03.2019 in E.P.No.4 of 2015 in O.S.No.217 of 2002 on the file of the District Munsif, Lalgudi.

For Petitioner : Mr.K.Prabhakar

For Respondents : Mr.J.Ashok,
Additional Government Pleader.



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ORDER

The Civil Revision Petition is directed against the order passed in E.P.No.4 of 2015 in O.S.No.217 of 2002, dated 25.03.2019 on the file of the District Munsif, Lalgudi, dismissing the execution petition.

2. It is seen from the records that the revision petitioner has filed a suit in O.S.No.217 of 2022 against the Government Officials for mandatory injunction to amend the revenue records relating to the S.Nos. 283/8 and 283/10 as per the decree already obtained in O.S.No.34 of 2006, dated 28.03.2006 on the file of the District Munsif cum Judicial Magistrate, Lalgudi.

3. It is evident from the records that since the Government Officials have remained ex-parte, ex-parte judgment and decree came to be passed on 11.08.2014 granting mandatory injunction as prayed for. Since the defendants have not complied with the decree for mandatory injunction, the revision petitioner/plaintiff has laid the execution petition in E.P.No.4 of 2015 for executing the decree for mandatory injunction. The



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respondents/Government Officials have filed the counter statement raising objections. The learned trial Judge, after enquiry, has passed the impugned order, dismissing the petition.

4. As rightly pointed out by the learned trial Judge, though the revision petitioner has obtained a decree with respect to two survey numbers ie., S.Nos.283/8 and 283/10 to the extent of land measuring 87 feet east-west and 87 feet north-south, they have filed execution petition for 3 survey numbers by including S.No.283/7 and also east-west extent of 110 feet and that since the execution petition was not laid for the property for which decree was obtained, dismissed the execution petition. Since the property shown in the execution petition for executing the decree for mandatory injunction, differs from the property shown in the decree, the impugned order dismissing the execution petition cannot be found fault with.

5. When the matter is taken up for hearing today, the learned counsel for the petitioner would fairly concede that the revision petitioner has included another property situated in S.No.283/7 and also excess



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extent to the tune of 110 feet east-west and the same was not the subject matter of the suit as well as the decree and that therefore, the revision petitioner may be permitted to amend the execution petition.

6. The learned Additional Government Pleader appearing for the respondents would submit that they may also be given an opportunity to contest the execution petition.

7. Considering the above, the impugned order in E.P.No.4 of 2015 in O.S.No.217 of 2002, dated 25.03.2019 on the file of the District Munsif, Lalgudi, is set aside. Consequently, the above matter is ordered to be remitted back to the Executing Court. The revision petitioner is at liberty to take necessary steps to amend the execution petition so as to incorporate the property shown in the decree. The respondents are also at liberty to file their counter statement. Thereafter, the Executing Court is directed to proceed with enquiry and pass orders in accordance with law within a period of three months from the date of receipt of copy of this order.



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8. With the above directions, the Civil Revision Petition is disposed
of. No costs.

19.02.2024

NCC :yes/No
Index :yes/No
Internet :yes/No
das

To

- 1.The District Munsif, Lalgudi.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

DAS

Order made in
C.R.P.(MD)No.913 of 2019

Dated : 19.02.2024